

## § 2.23

sample notice in paragraph (d) to comply with the requirement to provide the patient with a summary in writing of the Federal law and regulations. In addition, the program may include in the written summary information concerning State law and any program policy not inconsistent with State and Federal law on the subject of confidentiality of alcohol and drug abuse patient records.

(d) *Sample notice.*

### CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

The confidentiality of alcohol and drug abuse patient records maintained by this program is protected by Federal law and regulations. Generally, the program may not say to a person outside the program that a patient attends the program, or disclose any information identifying a patient as an alcohol or drug abuser *Unless*:

- (1) The patient consents in writing;
- (2) The disclosure is allowed by a court order; or
- (3) The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation.

Violation of the Federal law and regulations by a program is a crime. Suspected violations may be reported to appropriate authorities in accordance with Federal regulations.

Federal law and regulations do not protect any information about a crime committed by a patient either at the program or against any person who works for the program or about any threat to commit such a crime.

Federal laws and regulations do not protect any information about suspected child abuse or neglect from being reported under State law to appropriate State or local authorities.

(See 42 U.S.C. 290dd-3 and 42 U.S.C. 290ee-3 for Federal laws and 42 CFR part 2 for Federal regulations.)

(Approved by the Office of Management and Budget under control number 0930-0099)

## § 2.23 Patient access and restrictions on use.

(a) *Patient access not prohibited.* These regulations do not prohibit a program from giving a patient access to his or her own records, including the opportunity to inspect and copy any records that the program maintains about the patient. The program is not required to obtain a patient's written consent or other authorization under these regula-

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tions in order to provide such access to the patient.

(b) *Restriction on use of information.* Information obtained by patient access to his or her patient record is subject to the restriction on use of his information to initiate or substantiate any criminal charges against the patient or to conduct any criminal investigation of the patient as provided for under § 2.12(d)(1).

### Subpart C—Disclosures With Patient's Consent

#### § 2.31 Form of written consent.

(a) *Required elements.* A written consent to a disclosure under these regulations must include:

- (1) The specific name or general designation of the program or person permitted to make the disclosure.
- (2) The name or title of the individual or the name of the organization to which disclosure is to be made.
- (3) The name of the patient.
- (4) The purpose of the disclosure.
- (5) How much and what kind of information is to be disclosed.
- (6) The signature of the patient and, when required for a patient who is a minor, the signature of a person authorized to give consent under § 2.14; or, when required for a patient who is incompetent or deceased, the signature of a person authorized to sign under § 2.15 in lieu of the patient.
- (7) The date on which the consent is signed.

(8) A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it. Acting in reliance includes the provision of treatment services in reliance on a valid consent to disclose information to a third party payer.

(9) The date, event, or condition upon which the consent will expire if not revoked before. This date, event, or condition must insure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.

(b) *Sample consent form.* The following form complies with paragraph (a) of this section, but other elements may be added.

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1. I (name of patient) ☐ Request ☐ Authorize:  
2. (name or general designation of program  
which is to make the disclosure)

3. To disclose: (kind and amount of informa-  
tion to be disclosed)

4. To: (name or title of the person or organi-  
zation to which disclosure is to be made)

5. For (purpose of the disclosure)

6. Date (on which this consent is signed)

7. Signature of patient

8. Signature of parent or guardian (where re-  
quired)

9. Signature of person authorized to sign in  
lieu of the patient (where required)

10. This consent is subject to revocation at  
any time except to the extent that the pro-  
gram which is to make the disclosure has al-  
ready taken action in reliance on it. If not  
previously revoked, this consent will termi-  
nate upon: (specific date, event, or condi-  
tion)

(c) *Expired, deficient, or false consent.*  
A disclosure may not be made on the  
basis of a consent which:

- (1) Has expired;
- (2) On its face substantially fails to  
conform to any of the requirements set  
forth in paragraph (a) of this section;
- (3) Is known to have been revoked; or
- (4) Is known, or through a reasonable  
effort could be known, by the person  
holding the records to be materially  
false.

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Budget under control number 0930-0099)

### § 2.32 Prohibition on redisclosure.

*Notice to accompany disclosure.* Each  
disclosure made with the patient's  
written consent must be accompanied  
by the following written statement:

This information has been disclosed to you  
from records protected by Federal confiden-  
tiality rules (42 CFR part 2). The Federal  
rules prohibit you from making any further  
disclosure of this information unless further  
disclosure is expressly permitted by the writ-  
ten consent of the person to whom it per-  
tains or as otherwise permitted by 42 CFR  
part 2. A general authorization for the re-  
lease of medical or other information is NOT  
sufficient for this purpose. The Federal rules  
restrict any use of the information to crimi-

nally investigate or prosecute any alcohol or  
drug abuse patient.

[52 FR 21809, June 9, 1987; 52 FR 41997, Nov. 2,  
1987]

### § 2.33 Disclosures permitted with writ- ten consent.

If a patient consents to a disclosure  
of his or her records under § 2.31, a pro-  
gram may disclose those records in ac-  
cordance with that consent to any indi-  
vidual or organization named in the  
consent, except that disclosures to cen-  
tral registries and in connection with  
criminal justice referrals must meet  
the requirements of §§ 2.34 and 2.35, re-  
spectively.

### § 2.34 Disclosures to prevent multiple enrollments in detoxification and maintenance treatment programs.

(a) *Definitions.* For purposes of this  
section:

*Central registry* means an organiza-  
tion which obtains from two or more  
member programs patient identifying  
information about individuals applying  
for maintenance treatment or detoxi-  
fication treatment for the purpose of  
avoiding an individual's concurrent en-  
rollment in more than one program.

*Detoxification treatment* means the  
dispensing of a narcotic drug in de-  
creasing doses to an individual in order  
to reduce or eliminate adverse physio-  
logical or psychological effects inci-  
dent to withdrawal from the sustained  
use of a narcotic drug.

*Maintenance treatment* means the dis-  
pensing of a narcotic drug in the treat-  
ment of an individual for dependence  
upon heroin or other morphine-like  
drugs.

*Member program* means a detoxifica-  
tion treatment or maintenance treat-  
ment program which reports patient  
identifying information to a central  
registry and which is in the same State  
as that central registry or is not more  
than 125 miles from any border of the  
State in which the central registry is  
located.

(b) *Restrictions on disclosure.* A pro-  
gram may disclose patient records to a  
central registry or to any detoxifica-  
tion or maintenance treatment pro-  
gram not more than 200 miles away for  
the purpose of preventing the multiple  
enrollment of a patient only if: